

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11  
12 NIKKI POOSHS,  
13 Plaintiff,  
14 v.  
15 ALTRIA GROUP, INC. *et al.*,  
16 Defendants.

Case No. C-04-1221 PJH-JCS  
**[PROPOSED] ORDER ON  
PLAINTIFF'S OBJECTIONS TO  
DEFENSE EXHIBITS TO BE  
PROFFERED WITH DR.  
CUMMINGS**

17  
18 Judge: The Hon. Phyllis J. Hamilton

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20 The Court has reviewed Plaintiff's January 25, 2016 submission regarding objections to  
21 Defendants' exhibits to be proffered with Dr. Cummings. The Court rules as follows:

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-365	IRRELEVANT, 403	This is a report authored by the California Department of Public Health on Cigarettes and Health. This is directly relevant to public awareness of health risks of smoking.	<i>overruled</i>

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
A-478	IRRELEVANT, 403, UNDUE PREJUDICE	Plaintiff Nikki Pooshs testified that she actually saw this January 13, 1964 editorial cartoon regarding the Surgeon General's Report published in the <i>Oakland Tribune</i> . See 12/11/2006 Nikki Pooshs Trial Preservation Cross at 95:14-23. This is directly relevant to her awareness of the health risks of smoking.	<i>overruled</i>
B-321	DESIGN, IRRELEVANT	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>overruled</i>
B-430	Hearsay	Not offered for truth of the matter asserted; offered for to show that a public speech was made by RJR employer and did not remain internal to the company	<i>overruled</i>
B-554	IRRELEVANT, 403, ILLEGIBLE	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	<i>sustained</i>
B-557	Violates pre-trial ruling #22; irrelevant; 403; Hearsay	This is a publicly available article on the health risks of smoking. Directly relevant to the pre-1969 failure to warn claim.	<i>overruled</i>
B-559	IRRELEVANT, 403	Relevant to contextualize the Frank Statement that Plaintiff has already offered and elicited testimony.	<i>sustained</i>
B-561	IRRELEVANT, 403	Relevant to RJR/PM's state of mind pre-1969.	<i>overruled</i>

Exhibit No.	Plaintiff's Objection(s)	Defendants' Response	Court's Ruling
B-563	IRRELEVANT, MEDICAL TREATISE	Publicly available information concerning health risks of smoking pre-1969.	<i>overruled</i>
B-565			<i>overruled</i>
B-567	IRRELEVANT, 403, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>sustained</i>
B-571	IRRELEVANT, 403	Plaintiff is permitted to show ads that are pre-1969. These ads are relevant to rebut Plaintiff's proffer.	<i>not admissible but may be used as demonstratives</i>
B-572			
B-573			
B-574			
B-575	IRRELEVANT, 403, MEDICAL TREATISE	Relevant to RJR/PM's state of mind pre-1969.	<i>overruled</i>
B-576	IRRELEVANT, 403	Plaintiff's exhibit 24 is a Flintstones advertising. If Plaintiff's 24 is admitted, these are relevant to rebut that advertisement.	<i>approved if it's 24 is admitted</i>
B-578 <i>not in binder</i>			
B-580	DESIGN, ILLEGIBLE	Conditionally offered depending on the scope of Dr. Cummings' testimony.	<i>sustained</i>

IT IS SO ORDERED

Dated: January 25, 2016



PHYLЛИS J. HAMILTON  
United States District Judge